

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

ROBERT H. AYLOR, JR., On Behalf Of Himself : Civil Action No. 05-0222 (SLR)  
and All Others Similarly Situated, : Class Action

Plaintiff,

v.

XYBERNAUT CORPORATION, EDWARD G.  
NEWMAN, STEVEN A. NEWMAN, M.D., and  
THOMAS D. DAVIS,

Defendants.

MOSHE TAL, On Behalf Of Himself and All : Civil Action No. 05-0242 (SLR)  
Others Similarly Situated, : Class Action

Plaintiff,

v.

XYBERNAUT CORPORATION, EDWARD G.  
NEWMAN, STEVEN A. NEWMAN, M.D., and  
THOMAS D. DAVIS,

Defendants.

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**XYBERNAUT INVESTORS GROUP'S MOTION FOR CONSOLIDATION,  
APPLICATION FOR APPOINTMENT AS LEAD PLAINTIFF, AND FOR  
APPROVAL OF THEIR SELECTION OF LEAD AND LIAISON COUNSEL**

MICHAEL FEHRENBACHER, Individually and  
On Behalf Of All Others Similarly Situated,

Plaintiff,

v.

XYBERNAUT CORPORATION, EDWARD G.  
NEWMAN, STEVEN A. NEWMAN, M.D., and  
THOMAS D. DAVIS,

Defendants.

Civil Action No. 05-0256 (SLR)  
Class Action

JEFFREY M. JASKOL AND STACEY J.  
JASKOL, Individually and On Behalf Of All  
Others Similarly Situated,

Plaintiffs,

v.

XYBERNAUT CORPORATION, EDWARD G.  
NEWMAN, STEVEN A. NEWMAN, THOMAS  
D. DAVIS, BRUCE C. HAYDEN, and  
GRANT THORNTON LLP,

Defendants.

Civil Action No. 05-0268 (SLR)  
Class Action

JOSEPH DANIEL WAUHOP, On Behalf Of  
Himself and All Others Similarly Situated,

Plaintiff,

v.

XYBERNAUT CORPORATION, EDWARD G.  
NEWMAN, STEVEN A. NEWMAN, M.D.,  
THOMAS D. DAVIS, JOHN F. MOYNAHAN,  
and GRANT THORNTON, LLP,

Defendants.

Civil Action No. 05-0310 (SLR)  
Class Action

CHRISTINA W. DONNELLY, JOHN  
DONNELLY, JAMES G. WILLIAMSON, and  
RICHARD W. DEARBORN,

Plaintiffs,

v.

XYBERNAUT CORPORATION, EDWARD G.  
NEWMAN, STEVEN A. NEWMAN, THOMAS  
D. DAVIS, BRUCE C. HAYDEN, and  
GRANT THORNTON LLP,

Defendants.

Civil Action No. 05-0334 (JJF)  
Class Action

CHARLES W. SMITH, Individually and On Behalf  
OF All Others Similarly Situated,

Plaintiff,

v.

XYBERNAUT CORPORATION, EDWARD G.  
NEWMAN, STEVEN A. NEWMAN, THOMAS  
D. DAVIS, BRUCE C. HAYDEN, and  
GRANT THORNTON, LLP,

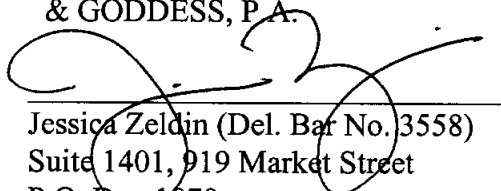
Defendants.

Civil Action No. 05-0354 (SLR)  
Class Action

Class members Donald T. Ogle, Jr., Wei Wang, Tom Johnson, Michael Taylor, and Robert A. Schultz (collectively, “Xybernaut Investors Group” or “Movant”) hereby move this Court for an Order: (i) consolidating the above-captioned actions; (ii) appointing the Movant as Lead Plaintiff in the consolidated action pursuant to § 21D(a)(3) of the Securities Exchange Act of 1934 (the “Exchange Act”), as amended by the Private Securities Litigation Reform Act of 1995 (the “PSLRA”), 15 U.S.C. § 78u-4(a)(3); (iii) approving the Xybernaut Investors Group’s selection of

the law firms of Shepherd Finkelman Miller & Shah, LLC and Schatz & Nobel, P.C. to serve as co-lead counsel, and Rosenthal, Monhait, Gross & Goddess, P.A. to serve as liaison counsel; and (iv) granting such other and further relief as the Court may deem just and proper. In support of this Motion, Movant submits a supporting Opening Brief, the Declaration of Jessica Zeldin with attached exhibits, and a proposed Order.

ROSENTHAL, MONHAIT, GROSS  
& GODDESS, P.A.



\_\_\_\_\_  
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Counsel for Movant

OF COUNSEL:

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June 14, 2005

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THOMAS D. DAVIS,

Defendants.

[Captions Continued On Next Page]

**ORDER CONSOLIDATING ACTIONS, APPOINTING  
THE XYBERNAUT INVESTORS GROUP AS LEAD PLAINTIFF AND  
APPROVING LEAD PLAINTIFF'S SELECTION OF LEAD AND LIAISON COUNSEL**

MICHAEL FEHRENBACHER, Individually and  
On Behalf Of All Others Similarly Situated,

Plaintiff,

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THOMAS D. DAVIS,

Defendants.

Civil Action No. 05-0256 (SLR)  
Class Action

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JASKOL, Individually and On Behalf Of All  
Others Similarly Situated,

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D. DAVIS, BRUCE C. HAYDEN, and  
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Civil Action No. 05-0268 (SLR)  
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Himself and All Others Similarly Situated,

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D. DAVIS, BRUCE C. HAYDEN, and  
GRANT THORNTON, LLP,

Defendants.

Civil Action No. 05-0354 (SLR)  
Class Action

Upon consideration of the motion of Donald T. Ogle, Jr., Wei Wang, Tom Johnson, Michael Taylor, and Robert A. Schultz (referred to collectively herein as “Movant” or the “Xybernaut Investors Group”) for consoliadtion of the above-captioned action, appointment as Lead Plaintiff and approval of selection of Lead and Liaison Counsel, Movant’s supporting Opening Brief, and the Declaration of Jessica Zeldin in support thereof, and for good cause shown, it is hereby **ORDERED** as follows:

1. The Motion of the Xybernaut Investors Group is **GRANTED**;

2. The above-captioned actions are hereby **CONSOLIDATED** and shall be docketed under the caption of the first-filed action;

3. The Xybernaut Investors Group is **APPOINTED** to serve as lead plaintiff, pursuant to Section 21D of the Securities Exchange Act, 15 U.S.C. § 78u-4(a)(3)(B); and

4. The selection of counsel by the Xybernaut Investors group is **APPROVED** and the law firms of Shepherd Finkelman Miller & Shah, LLC and Schatz & Nobel, P.C. are hereby **APPOINTED** as Co-Lead Counsel, and the law firm of Rosenthal, Monhait, Gross & Goddess, P.A. is hereby **APPOINTED** as Liaison Counsel.

IT IS SO ORDERED this \_\_\_\_ day of \_\_\_\_ 2005:

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Sue L. Robinson, J.  
United States District Judge